



# MINUTES

## Charlotte County Board of Zoning Appeals

Wednesday, November 18, 2020 9:00 a.m. - Room 119

Charlotte County Administration Center  
18500 Murdock Circle, Port Charlotte, FL 33948-1094

(These minutes are not official until they have been approved by the Charlotte County Board of Zoning Appeals)

### **Board Member:**

Steve Vieira, Secretary  
William Abbatematteo, Vice-Chair  
Larry Fix  
Blair McVety, Chair  
John Doner

### **Staff:**

Shaun Cullinan, Planning/Zoning Official  
Thomas David, Asst. Co. Attorney  
Stacy Bjordahl, Asst. Co. Attorney  
Elizabeth Nocheck, AICP, Sr. Planner  
Diane Clim - Recorder

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### **I. Call to Order**

Chair McVety called the November 18, 2020 meeting of the Board of Zoning Appeals to order at 9:00 a.m.

### **II. Pledge of Allegiance**

Chair McVety led the members and the audience in reciting the Pledge of Allegiance.

### **III. Roll Call**

Roll call was taken; a quorum was present.

### **IV. Swearing In of Those Giving Testimony**

Diane Clim swore in all persons who wished to provide testimony.

### **V. Approval of Minutes**

***ACTION:*** A motion was presented by Mr. Fix and seconded by Mr. Abbatematteo to approve the minutes of the October 14, 2020 meeting of the Board of Zoning Appeals which passed with a unanimous vote.

### **VI. Disclosure Statements**

Ex-parte forms indicating site visits concerning the petitions being presented before the November 18, 2020 Board of Zoning Appeals meeting were submitted.

### **VII. Introduction of Staff/Comments**

Chair McVety introduced staff. Shaun Cullinan, Planning and Zoning Official, read the Zoning rules, Asst. County Attorney David and Chair McVety made introductory remarks regarding the types of requests that the Board of Zoning Appeals would be reviewing and the standards which must be met, the notification process and how the Board of Zoning Appeals makes its decision.

**VIII. New Business**

***The following petitions were advertised on November 3, 2020: SE-20-030, SE-20-031 and SE-20-032***

**VAR-20-007**

**This Petition was withdrawn**

Margaret Marigold and Michael Laney are requesting two variances; one (a) to reduce the required 7.5-foot northeast side yard setback by 5.5 feet to allow a 2-foot northeast side yard setback and a second (b) to reduce the required 7.5-foot south side yard setback by 5.5 feet to allow a 2-foot south side yard setback for a boat dock in the Manufactured Home Conventional (MHC) zoning district. The property address is **795 Rio Villa Drive**, Punta Gorda, and is described as Lot 11, Block A, of Charlotte Park subdivision, sub-section 3, located in Section 19, Township 41 South, Range 21 East.

**SE-20-030**

Howard Freidin, agent for Daniel Austin Development, LLC., is requesting a special exception to allow an outdoor storage yard for company vehicles, in the Commercial General (CG) zoning district. The property is located at 3391 S. Access Road, Englewood, and is described as Lot 38, Block 3457, of Port Charlotte Subdivision, Section 74, located in Section 3, Township 41 South, Range 20 East.

Elizabet Nocheck read into the record the staff report and staff findings for the petition.

**Applicant Presentation**

**Howard Freiden, agent for the applicant, said he was sworn in.** Mr. Freiden said we have been working with the County for some time in order to meet the requirements. The owner wants to secure the trucks on this site. They agree with the conditions in the staff report and he would answer any questions.

**Mr. Vieira** said the business is on lot 37, is there a reciprocal easement agreement between lot 37 and the larger commercial structure to the left of it?

**Mr. Cullinan** said no. Lot 37 with the single structure on it, that is a stand-alone structure.

**Mr. Vieira** asked where are the vehicles stored now?

**Mr. Frieden** said they are out on the street and they want them secured.

***Chair McVety opened the meeting to Public Hearing.***

**Public Input**

No one spoke for or against this request.

**Ms. Nocheck** said she received a letter from a neighboring property owner in support of this use.

***There being no further requests to speak for or against the petition, Mr. Fix moved to close the public hearing, seconded by Mr. Vieira. The public hearing was closed with a unanimous vote.***

Elizabeth Nocheck presented the recommended conditions for the petition.



**Board Member Comments and Questions**

None

***ACTION:*** A motion was presented by Larry Fix and seconded by John Doner that Petition SE-20-030 be **APPROVED** based on the Community Development Staff Report dated November 10, 2020, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Special Exception with eight conditions recommended by staff.

***Motion was approved with a unanimous vote with the following eight conditions:***

1. The special exception, as approved by the Board of Zoning Appeals, is to allow the outdoor storage of company vehicles, and extends only to the lands included in the Site Plans and legal description submitted with this application.
2. The Site Plan and Landscape Plan submitted by the applicant, as part of the petition, are for illustrative purposes only. All applicable regulations of County Code shall apply to this development. The applicant shall obtain all necessary permits and approvals as applicable to this development, including but not limited to right-of-way access, vegetation removal, fencing, stormwater management, and landscape plan approval
3. The outdoor storage areas may only be used for the parking of company vehicles or personal vehicles of company employees for the business operated as Rubber Tree Carpets & Design. Overnight parking of company vehicles shall be permitted.
4. Outdoor storage of materials or heavy machinery is prohibited.
5. A "Type D" Landscape Buffer with a six-foot high sight-obscuring fence or wall, shall be constructed and planted along all property lines.
6. This Special Exception is granted for a term of three years from the date it receives approval from the Board of Zoning Appeals; however, the Special Exception shall not expire if the owner commences the proposed development on or before the Special Exception's term expires.
7. Any major changes or additions to this special exception shall require a modification of the special exception. Minor changes or additions, such as accessory uses or structures, may be approved by the Zoning Official.
8. Any major changes or additions to this special exception, including a change of location, scope of services, or change in the type of major home occupation conducted, shall require a modification of the special exception. Minor changes or additions such as accessory uses or structures may be approved by the Zoning Official.

**SE-20-031**

Greg Sabo is requesting a special exception to exceed the maximum of 2,000 square feet of accessory structures to allow a 3,600 square foot detached garage, in the Residential Single Family-3.5 (RSF-3.5) zoning district. The property is located at 10477 Sandrift Avenue, Englewood and is described as Lots 8 & 12, Block 3664, of Port Charlotte Subdivision, Section 64, located in Section 11, Township 41 South, Range 20 East.

Elizabet Nocheck read into the record the staff report and staff findings for the petition.

**Mr. Vieira** asked staff if they knew the square footage of the existing house?

**Ms. Nocheck** said 2,442 s.f.

**Mr. Vieira** said he was reading the applicants narrative. They indicate there is an existing structure of similar design or use somewhere in the neighborhood. He's looking at the GIS photograph and was trying to locate where that building might be in location to this site.

**Ms. Nocheck** said it would be better to ask the applicant where that garage is.

**Mr. Vieira** said in the narrative they say they need space to store their equipment for their home based business. Do we have a viable home based business registered?

**Ms. Nocheck** said they do not currently have one. If they were to request that, it would go through the minor home occupation process. These are approved through the Zoning Official.

#### **Applicant Presentation**

**Greg Sabo, applicant, said he was sworn in. Jennifer Sabo, his wife, also said she was sworn in. Mr. Sabo** said they operate Veterans Lawn Care. They will store their truck and trailer for lawn care inside the garage. They will also store their boat in the garage and he may work on his car in that garage. They have applied for a building permit but this came up and we found out we needed a special exception.

**Mr. Vieira** asked him if the similar structure is across the street?

**Mr. Sabo** said yes. There is also another large structure down the road. He said they will also have storage in the garage. His wife puts up a Christmas tree in every room. They agree with the conditions.

***Chair McVety opened the meeting to Public Hearing.***

#### **Public Input**

No one spoke for or against this request.

***There being no further requests to speak for or against the petition, Mr. Fix moved to close the public hearing, seconded by Mr. Doner. The public hearing was closed with a unanimous vote.***

Elizabeth Nocheck presented the recommended conditions for the petition.

#### **Board Member Comments and Questions**

None

***ACTION: A motion was presented by Larry Fix and seconded by John Doner that Petition SE-20-031 be APPROVED based on the Community Development Staff Report dated November 10, 2020, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Special Exception with seven conditions recommended by staff.***



***Motion was approved with a unanimous vote with the following seven conditions:***

1. The special exception, as approved by the Board of Zoning Appeals, is to exceed the maximum of 2,000 square feet for accessory structures on a property under one-half acre in size, to construct a 3,600 square foot detached garage, and extends only to the lands included in the Site Plans and legal description submitted by this application.
2. The Concept Plan submitted by the applicant, as part of the petition, is for illustrative purposes only. All applicable regulations of County Code shall apply to this development. The applicant shall obtain all necessary permits and approvals as applicable to this development, including but not limited to right-of-way access, building, utilities, and fencing.
3. The detached garage may not be used as a dwelling unit.
4. The garage shall be constructed to match the materials and colors of the existing single-family residence.
5. Subject property shall remain under unified ownership. If subject property is sold in the future, the lots may not be split or unconsolidated.
6. This Special Exception is granted for a term of three years from the date it receives approval from the Board of Zoning Appeals; however, the Special Exception shall not expire if the owner commences the proposed development on or before the Special Exception's term expires.
7. Any major changes or additions to this special exception shall require a modification of the special exception. Minor changes or additions, such as accessory uses, may be approved by the Zoning Official.

**SE-20-032**

Francis Bradfield is requesting a special exception to allow an outdoor shooting range in the Agriculture (AG) zoning district. The property is located at 27275 Jones Loop Road, Punta Gorda, and is described as Parcel P5-1-1, located in Section 23, Township 41 South, Range 23 East.

Elizabet Nocheck read into the record the staff report and staff findings for the petition.

**Applicant Presentation**

**Francis Bradfield, applicant, said he was sworn in.** Mr. Bradfield said everything he put into this request for the gun range is built on NRA standards and guidelines. He said there will not be any ricochets of bullets. There will not be any environmental impacts. The side berms will be concrete. This will help stop the sound and any ricochet bullets if that were to happen. He said he sat in his vehicle on Jones Loop and the noise was 90 decibels. There are 140-165 decibels when firing a firearm in open land. Cecil Webb and the Charlotte County airport are very close. There is noise from those areas.

**Mr. Doner** said he does not see any sound buffering to the rear of the firing line.

**Mr. Bradfield** said the sound baffling to the rear, is the concrete wall.

There was a small discussion about if a bullet ricochets off a wall, where would it go.

***Chair McVety opened the meeting to Public Hearing.***

**Public Input**

**Jared Lambert, who lives in the area, said he was sworn in.** Mr. Lambert said he was reading a letter from his attorney who could not attend. The letter represents the neighbors in the Jones Loop Road area and Riverside Oaks and Ventura Lakes. The letter went on to say they were against this request because of noise and the chance a bullet may ricochet out into the neighborhood area. They feel this use is not compatible in this area. He went on to read other cases from the past.

**Peter Goulah, who lives in the area, said he was sworn in.** Mr. Goulah said he is on the Board of Directors at the Riverside Oaks Punta Gorda homeowner's association. He is representing the residents. There are 102 homes in their community. Their objections are based on the fact that the applicant's application failed to comply with 3 of the criteria to approve a special exception. The proposed special exception is compatible with surrounding land and the use shall not be detrimental to the public health, safety and general welfare. They are concerned about the noise level. He read into the record loud noises he found on the internet. He also brought up other issues with bullets/lead in the ground and contaminating the area with rainwater. Mostly all of this being close to other residents. They are against this request.

**James Cubbage said he was sworn in.** Mr. Cubbage represents the Jehovah witness church around the corner of this site. They are also concerned with gun noises when they have meetings and other gatherings

**Rick Halenstein said he was sworn in.** Mr. Halenstein said he manages Creek Side RV resort. They have concerns with noise and safety of stray bullets. He said during peak season, they have over 400 guests in this resort. They are concerned there is a known gun range this close, maybe guest will not continue to visit. Many guests have pets. Gun noises can frighten them.

**Julie Edwards said she was sworn in.** Ms. Edwards said this is right in her back yard. Her property is to the east. There is a lot of wildlife and she is concerned about all of this request. They are against this request.

**Ken Brese said he was sworn in.** Mr. Brese said his biggest concern is what everyone else said. He owns property where the access road goes to this subject property. The road is over 1000 feet long, there is hardly any space in that area where 2 cars can pass each other. It is hard to pass and he is concerned about people turning around on his property. He has a lot of shell and sand in his yard.

**Geri Waksler, P.A., said she was sworn in.** Ms. Waksler said she has practiced land use law for many years and has been before this board many times with petitions. She said she is here on behalf of OB Four and SK Jones Loop LLC, which owns the property at the far east end of the loop. There are 3 criteria for approval of a Special Exception. Consistency, compatibility and if the use would danger the public health, safety and welfare. This application meets none of these criteria. The comp plan permits rural recreational use on lands designated as agricultural. The application states the facility will contain classroom space and will be leased for law enforcement training. Classroom and training are not recreational uses and are not consistent with the agricultural designation in the comprehensive plan. The use is not compatible with the surrounding uses. This site is less than half the size of required land in agricultural uses. She discussed the range and airport approach/runway, she said this is not compatible. There is a church and homes in the area. When she represented DR Horton on the Waterford Estates project on Airport Road by the old Sheriff's office, they found hundreds and hundreds of bullets on the Waterford property. Hundreds of bullets ricocheted off the berm and landed on the



property next door. That resulted in a multi-million dollar redesign which has recently been completed. This proposed gun range endangers the health, safety and welfare. She said this proposal fails to meet all 3 criteria for the requirements of a special exception.

**Michael Haymans, P.A., said he was sworn in.** Mr. Haymans said he had a power point presentation. He represents the property owners directly to the south of the site. They are opposed to this request. Their property is truly a bonafide agricultural use. This site is less than 5 acres and it is non-conforming. When you have recreational uses on agriculture, you think of way out in the boonies, certainly not on a small acreage like this. He has been working in land use since the 1980's. The problem here is with sound, bullet fragments and ricochets. Also impact upon access through an easement that is incompatible. The neighbors have parrots they breed for commercial uses. Their birds and hatchings will be detrimentally impacted. He showed the neighborhood area and the site for the owners of the parrots. Mr. Haymans also said he lives on Burnt Store Road between Jones Loop extension and Taylor Road, which is about 2.5 miles to the north and west of this site. I hear the gun range at Cecil Webb. I hear the racetrack off Piper Road and I hear the airplanes that crank up at 6 a.m. in the morning. No expertise has offered his opinion of the sounds for this request. He also discussed the Sheriff's office and how it has been redesigned to stop all these problems. He showed the site asking for this request and showed the easement they use for access. There is not enough room for vehicles. It will over burden the easement. He said there already is roofing debris dumped on this site and covered with grass and there are no permits for any of this. This is the wrong place for a shooting range.

**Robert Berntsson, P.A. with Big W Law, said he was sworn in.** Mr. Berntsson said he also has an exhibit. He went through his credentials in the land use background. He said he represents Alligator Creek Estates LLC, the owner of the property 2 parcels over on the east of this proposed site. He went over the packet he handed out. There is a report from EP 3 Inc. This is the report both Ms. Waksler and Mr. Hayman's referred to of the gun fragments that escaped the Charlotte County Sheriff's firing range on to his client's property. He went over all the rounds found on the other property and on the road from the firing range. He also had a report about a woman at the Carmelita ballfield who was hit with a stray bullet from the gun range which was a mile from where she was. A vehicle window in the Public Works parking lot was broken from a stray bullet at the gun range. He said this type of use belongs in a rural rural location on a large large piece of property. We do need gun ranges for a service to the community but not in this location. He asked the Board to deny this request.

**Earl Smith and Mark Griffin, who own G&S aviaries, and said they were both sworn in.** Mr. Smith said the entire south edge of the property is directly adjacent to their property. They have 97 acres in that general area. It borders the pasture area. They have concerns about the noise level. Their veterinarian has also stated noises, loud noises, frequent noises impact parrots breeding. We have some very rare species of parrots. It is difficult at best but with repeated gun shots/fire, they are very concerned about the negative impact on their breeding operation, as well as just the general welfare of all of us in that area.

**Mark Griffin** said just another point. He has to mow these pastures that will be abutting up to where this range would be. We have livestock, we have a home located about 1000 feet in the general direction of the firing range. They breed endangered species and their veterinarian was extremely concerned for the parrots.

**Lisa Blanchard, who was sworn in,** said she echoes what a lot of the neighbors have said. She is concerned for her family. She has a gun herself but feels this is a very poor location. Also, there is a lot of wildlife in this area, and they would be concerned about the wildlife.



*There being no further requests to speak for or against the petition, Mr. Fix moved to close the public hearing, seconded by Mr. Vieira. The public hearing was closed with a unanimous vote.*

**Rebuttal**

Mr. Bradfield said after hearing all that was said today, he is not going to argue. He will look for another site. He said if the sheriff's range was constructed properly, those stray bullets would not have happened.

Elizabeth Nocheck presented the recommended conditions for the petition.

**Board Member Comments and Questions**

None

**ACTION:** *A motion was presented by Larry Fix and seconded by John Doner that Petition SE-20-032 be DENIED based on the Community Development Staff Report dated November 10, 2020, the evidence and testimony presented at the hearing and finding that the applicant HAS NOT MET the required criteria for the granting of the Special Exception.*

*Motion was denied with a unanimous vote.*

**IX. Public Comments –**

None

**X. Staff Comments –**

Ms. Nocheck said we have 2 items for next month's meeting.

**XI. Member Comments -**

None

**XII. Next Meeting**


*The next meeting of the Board of Zoning Appeals is scheduled for **Wednesday, December 9, 2020 at 9:00 a.m., in Room 119.***

There being no further business, the meeting **ADJOURNED** at 11:35 a.m.

Respectfully submitted,

Diane Clim, Recorder

/dlc

  
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Blair McVety, Chair

Approval Date: \_\_\_\_\_